

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1288

Introduced by Senator Cedillo

February 14, 2006

An act to amend Section 11758.46 of the Health and Safety Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1288, as amended, Cedillo. Medi-Cal: minors: drug and alcohol treatment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Medi-Cal Drug Treatment Program, under which each county enters into contracts with the State Department of Alcohol and Drug Programs for the provision of various drug treatment services to Medi-Cal recipients, or the department directly arranges for the provision of these services if a county elects not to do so.

This bill would make specified findings and declarations regarding the need for and availability of drug and alcohol treatment services to minors. It would require that residential drug and alcohol treatment services and other specified services *described in the Youth Treatment Guidelines issued by the State Department of Alcohol and Drug Programs* for persons 12 to 20 years of age be a covered benefit under the Medi-Cal Drug Treatment Program, regardless of the availability

of federal financial participation. The bill would require the State Department of Health Services to use its best efforts to obtain approval by the federal Centers for Medicare and Medicaid Services of a Medicaid state plan amendment providing for federal financial participation with respect to those services, but would require the services to be covered under the Medi-Cal program even if federal financial participation is not obtained. *The bill would require that any change to the above Youth Treatment Guidelines be made in consultation with affected parties, and that the department report to the Legislature on the change during the hearings on the annual Budget Act that follow the change.* The bill would provide that county welfare departments shall not be responsible for the costs of board and care related to the provision of the above residential drug and alcohol treatment services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In the State of California very few resources exist for youth
- 4 drug treatment, and specifically for residential or inpatient care.
- 5 Even the state Drug Medi-Cal program neglects many of the drug
- 6 treatment needs of youths. In a 2002 Legislative Analyst office
- 7 survey of the Drug Medi-Cal program, the Office of the
- 8 Legislative Analyst found that although youths compose 23
- 9 percent of the caseload for the Drug Medi-Cal program, they
- 10 receive only 6 to 8 percent of the total budget. In addition,
- 11 three-fourths of the Drug Medi-Cal program budget is spent on
- 12 methadone treatment, a service that minors are generally
- 13 prohibited from availing themselves of according to both state
- 14 and federal rules. Another drug treatment resource that youths
- 15 are restricted from using are the funds allocated by Proposition
- 16 36.
- 17 (b) Services that minors may consent to without parental
- 18 approval under the Medi-Cal program (Medi-Cal minor consent
- 19 services) generally do not include residential drug treatment
- 20 services.

1 (c) In California, under current funding and licensing
2 requirements, the only setting for residential youth alcohol and
3 drug treatment is either a child welfare-based group home or an
4 adult residential alcohol and drug treatment program that has a
5 state waiver to admit a very small number of youth.

6 (d) By expanding the scope of benefits for Medi-Cal services
7 to include residential substance abuse treatment, service
8 providers will have an increased incentive to establish residential
9 substance abuse treatment facilities.

10 (e) Neither the reimbursement rate nor the scope of benefits of
11 Medi-Cal drug treatment services comes close to meeting the
12 demands of the caseload.

13 (f) The American Society of Addiction Medicine has
14 recommended that substance abuse treatment should include a
15 continuum of care in which preventative, outpatient, residential,
16 and followup treatment services are available to youth suffering
17 from substance abuse disorders.

18 (g) Our culture often views substance abuse disorders as
19 “adult disorders,” a fact that has unfortunately resulted in an
20 adult-driven system of care and treatment for those suffering
21 from substance abuse disorders.

22 (h) Today, California has the highest treatment gap, on a
23 percentage basis, in the nation for persons 12 years of age and
24 over.

25 (i) Estimates based on the Federal Substance Abuse and
26 Mental Health Services Administration’s 2003 National Survey
27 on Drug Use and Health indicate that, in 2002, approximately
28 468,000 persons between the ages of 12 and 18 years in
29 California had a substance abuse problem that warranted
30 treatment. In that same year, only 18,965 youth in that age group
31 were actually admitted to publicly financed substance abuse
32 treatment.

33 (j) The Center for Substance Abuse Treatment estimates that 1
34 in 10 adolescents who need substance abuse treatment actually
35 receives it, and of those who receive treatment, only 25 percent
36 receive enough treatment.

37 (k) The State Department of Education reported that, during
38 the 2001–02 academic year, 42 percent of the 8,133 students who
39 were expelled were mandatorily excused due to drug and alcohol
40 violations.

(l) Various research studies, including a study conducted by the National Institute on Drug Abuse, have indicated that drug treatment programs, including residential treatment for adolescents, can be effective in reducing the use of alcohol and illegal drugs, improving school attendance and performance, and reducing involvement with the criminal justice system. The State Department of Alcohol and Drug Programs has calculated the cost of residential drug treatment in the community to be ~~\$175~~ *one hundred seventy-five dollars (\$175)* per day, per youth.

(m) Over the seven-year period between 1990 and 1997, the adult drug arrest rate in California decreased by 11 percent, whereas the juvenile drug arrest rate increased by 39 percent. No studies specific to California juvenile drug arrest rates have been conducted since 1999, so these figures are the most relevant data available.

(n) In a recent study conducted at the University of California, Los Angeles, researchers concluded that untreated addictions are what bring youths into the juvenile justice system in the first place.

(o) According to a report by the Schwab Foundation in 2004, the majority of youth entering substance abuse treatment in California are referred through the juvenile justice system.

SEC. 2. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, “Drug Medi-Cal services” means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(6) (A) For persons age 12 to 20, inclusive, the following services, as described in the Youth Treatment Guidelines issued by the department, or any successor to those guidelines, to the extent not otherwise available under this chapter:

(i) Residential treatment services.

- (ii) Outreach services.
- (iii) Screening services.
- (iv) Comprehensive assessment services.
- (v) Individual counseling.
- (vi) Family counseling.
- (vii) Day care habilitative services.
- (viii) Intensive day treatment services.
- (ix) Ancillary services.
- (x) Aftercare services.

(B) Notwithstanding any other provision of law, county welfare departments shall not be responsible for the costs of board and care related to services provided pursuant to clause (i) of subparagraph (A).

(C) The State Department of Health Services shall use its best efforts to obtain approval by the Centers for Medicare and Medicaid Services of a Medicaid state plan amendment providing for federal financial participation with respect to the services specified in subparagraph (A). However, these services shall be covered under the Medi-Cal program regardless of the availability of federal financial participation.

(D) Any change or amendment to the Youth Treatment Guidelines issued by the department, or any successor to those guidelines, shall be made in consultation with affected parties, and the department shall report to the Legislature on the change or amendment during the hearings on the annual Budget Act that follow the change or amendment.

(b) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, “Drug Medi-Cal services” shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.

(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in

1 gaining access to medical, social, educational, and other needed
2 services.

3 (3) Aftercare services.

4 (c) (1) Annually, the department shall publish procedures for
5 contracting for Drug Medi-Cal services with certified providers
6 and for claiming payments, including procedures and
7 specifications for electronic data submission for services
8 rendered.

9 (2) The department, county alcohol and drug program
10 administrators, and alcohol and drug service providers shall
11 automate the claiming process and the process for the submission
12 of specific data required in connection with reimbursement for
13 Drug Medi-Cal services, except that this requirement applies
14 only if funding is available from sources other than those made
15 available for treatment or other services.

16 (d) A county or a contractor for the provision of Drug
17 Medi-Cal services shall notify the department, within 30 days of
18 the receipt of the county allocation, of its intent to contract, as a
19 component of the single state-county contract, and provide
20 certified services pursuant to Section 11758.42, for the proposed
21 budget year. The notification shall include an accurate and
22 complete budget proposal, the structure of which shall be
23 mutually agreed to by county alcohol and drug program
24 administrators and the department, in the format provided by the
25 department, for specific services, for a specific time period, and
26 including estimated units of service, estimated rate per unit
27 consistent with law and regulations, and total estimated cost for
28 appropriate services.

29 (e) (1) Within 30 days of receipt of the proposal described in
30 subdivision (d), the department shall provide, to counties and
31 contractors proposing to provide Drug Medi-Cal services in the
32 proposed budget year, a proposed multiple-year contract, as a
33 component of the single state-county contract, for these services,
34 a current utilization control plan, and appropriate administrative
35 procedures.

36 (2) A county contracting for alcohol and drug services shall
37 receive a single state-county contract for the net negotiated
38 amount and Drug Medi-Cal services.

39 (3) Contractors contracting for Drug Medi-Cal services shall
40 receive a Drug Medi-Cal contract.

1 (f) (1) Upon receipt of a contract proposal pursuant to
2 subdivision (d), a county and a contractor seeking to provide
3 reimbursable Drug Medi-Cal services and the department may
4 begin negotiations and the process for contract approval.

5 (2) If a county does not approve a contract by July 1 of the
6 appropriate fiscal year, in accordance with subdivisions (c) to (e),
7 inclusive, the county shall have 30 additional days in which to
8 approve a contract. If the county has not approved the contract by
9 the end of that 30-day period, the department shall contract
10 directly for services within 30 days.

11 (3) Counties shall negotiate contracts only with providers
12 certified to provide reimbursable Drug Medi-Cal services and
13 that elect to participate in this program. Upon contract approval
14 by the department, a county shall establish approved contracts
15 with certified providers within 30 days following enactment of
16 the annual Budget Act. A county may establish contract
17 provisions to ensure interim funding pending the execution of
18 final contracts, multiple-year contracts pending final annual
19 approval by the department, and, to the extent allowable under
20 the annual Budget Act, other procedures to ensure timely
21 payment for services.

22 (g) (1) For counties and contractors providing Drug Medi-Cal
23 services, pursuant to approved contracts, and that have accurate
24 and complete claims, reimbursement for services from state
25 General Fund moneys shall commence no later than 45 days
26 following the enactment of the annual Budget Act for the
27 appropriate state fiscal year.

28 (2) For counties and contractors providing Drug Medi-Cal
29 services, pursuant to approved contracts, and that have accurate
30 and complete claims, reimbursement for services from federal
31 Medicaid funds shall commence no later than 45 days following
32 the enactment of the annual Budget Act for the appropriate state
33 fiscal year.

34 (3) The State Department of Health Services and the
35 department shall develop methods to ensure timely payment of
36 Drug Medi-Cal claims.

37 (4) The State Department of Health Services, in cooperation
38 with the department, shall take steps necessary to streamline the
39 billing system for reimbursable Drug Medi-Cal services, to assist

1 the department in meeting the billing provisions set forth in this
2 subdivision.

3 (h) The department shall submit a proposed interagency
4 agreement to the State Department of Health Services by May 1
5 for the following fiscal year. Review and interim approval of all
6 contractual and programmatic requirements, except final fiscal
7 estimates, shall be completed by the State Department of Health
8 Services by July 1. The interagency agreement shall not take
9 effect until the annual Budget Act is enacted and fiscal estimates
10 are approved by the State Department of Health Services. Final
11 approval shall be completed within 45 days of enactment of the
12 Budget Act.

13 (i) (1) A county or a provider certified to provide
14 reimbursable Drug Medi-Cal services, that is contracting with the
15 department, shall estimate the cost of those services by April 1 of
16 the fiscal year covered by the contract, and shall amend current
17 contracts, as necessary, by the following July 1.

18 (2) A county or a provider, except for a provider to whom
19 subdivision (j) applies, shall submit accurate and complete cost
20 reports for the previous state fiscal year by November 1;
21 following the end of the state fiscal year. The department may
22 settle cost for Drug Medi-Cal services; based on the cost report
23 as the final amendment to the approved single state-county
24 contract.

25 (j) Certified narcotic treatment program providers, that are
26 exclusively billing the state or the county for services rendered to
27 persons subject to Section 1210.1 of the Penal Code, Section
28 3063.1 of the Penal Code, or Section 11758.42 shall submit
29 accurate and complete performance reports for the previous state
30 fiscal year by November 1 following the end of that state fiscal
31 year. A provider to which this subdivision applies shall estimate
32 its budgets using the uniform state monthly reimbursement rate.
33 The format and content of the performance reports shall be
34 mutually agreed to by the department, the County Alcohol and
35 Drug Program Administrators Association of California, and
36 representatives of the treatment providers.